

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: Education Committee

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BILL: CS/SB 2252

INTRODUCER: Education Committee and Senator Webster

SUBJECT: District School Boards/Chair

DATE: April 19, 2006

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	deMarsh-Mathues	Matthews	ED	Fav/CS
2.	_____	_____	EE	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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## I. Summary:

This bill provides an alternative procedure to allow the election of a district school board chair by districtwide vote if the voters approve a proposition calling for the election of a district school board chair.

In addition, the bill resolves tie votes in a district school board meeting in favor of the side on which the chair casts his or her vote.

The bill is limited in application to charter counties with a population of between 800,000 and 1 million, based on the latest federal decennial census. The bill provides legislative findings for the limited application.

The bill substantially amends section 1001.371 and creates sections 1001.364 and 1001.365 of the Florida Statutes.

## II. Present Situation:

### Election of School Board Members

The State Constitution provides that each school district must have a school board composed of five or more members chosen in nonpartisan elections.<sup>1</sup> Current law provides for the creation of residence areas for district school boards.<sup>2</sup> While the law requires the election of district school board members by the voters in the entire district, it also provides an alternate procedure for the

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<sup>1</sup> Article IX, s. 4 of the State Constitution.

<sup>2</sup> s. 1001.36, F.S.

election of school board members.<sup>3</sup> Under the alternate procedure, a proposition calling for single-member representation within the residence areas of the district must be submitted for voter approval at any primary, general, or special election. The proposition may be initiated by the school board through a resolution or by the voters through a petition.

According to the Florida School Board Association, there are 21 single-member school districts: Bradford, Columbia, Duval, Escambia, Flagler, Franklin, Gadsden, Gulf, Hamilton, Hendry, Jefferson, Leon, Madison, Miami-Dade, Okaloosa, Palm Beach, Putnam, St. Johns, Suwannee, Taylor, and Washington. Broward and Pinellas are considered single-member school districts, although each district has some members who are elected at-large.

### **Election of School Board Chairs**

Each year a school board must elect a chair and may elect a vice chair. At the organizational meeting, the district school superintendent acts as chair until the completion of the organizational meeting.<sup>4</sup>

## **III. Effect of Proposed Changes:**

### **Districtwide Election of a District School Board Chair**

Under current law, the district school board elects its chair each year.<sup>5</sup> The bill provides an alternate procedure for electing the chair of a district school board as an additional member of the school board. The school board may adopt its own resolution to place the issue on the ballot for voter approval at any primary, general, or special election. Alternatively, the voters in the district may initiate a petition to have the issue placed on the ballot. If a proposition is approved by the voters for the districtwide election of the chair, the office of school board chair must be filled at the next general election.

The bill imposes a series of requirements on petitions calling for the districtwide election of a school board chair. A petition must contain the signatures of at least 10 percent of the district's registered voters. Petition sponsors must register as a political committee and follow the procedures in the bill for collecting signatures. Signatures are valid for 4 years. A proposition obtained through a petition initiative is placed on the ballot if the requisite number of validated signatures are obtained. After verifying the signatures within 30 days, the supervisor of elections must certify the petition to the school board. The board must adopt a resolution requesting an election date at the earliest primary, general, or otherwise called special election within not less than 30 days. No special election may be called for the sole purpose of presenting the proposition to the voters.

The bill requires the vice chair to be elected by the school board as provided for in s. 1001.371, F.S., which allows the board to elect a vice chair.

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<sup>3</sup> ss. 1001.361, and 1001.362, F.S.

<sup>4</sup> s. 1001.371, F.S.

<sup>5</sup> *Id.*

### **Tie Votes in a District School Board Meeting**

In the event of a tie vote of the district school board chair and school board members, the prevailing side is the one on which the chair voted. Any action taken as result of a vote taken in this manner satisfies the requirement for a majority or simple majority vote. This section of the bill applies to charter counties with a population of between 800,000 and 1 million, based on the latest federal decennial census.<sup>6</sup>

### **Limited Application**

The bill applies only to charter counties with a population of between 800,000 and 1 million, based on the latest federal decennial census. According to the 2000 federal census, the latest federal decennial census, Hillsborough (998,948), Orange (896,344), and Pinellas (921,482) counties would meet the bill's criteria.<sup>7</sup>

The bill provides legislative findings related to the bill's application, including the growth in medium-sized counties, the needs of families with school-age children, and the need for alternative procedures for the election of a district school board chair.

### **Effective Date**

The bill would take effect July 1, 2006.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

None.

### **B. Public Records/Open Meetings Issues:**

None.

### **C. Trust Funds Restrictions:**

None.

### **D. Other Constitutional Issues:**

#### ***Constitutionally Prohibited Laws***

Article III, section 11(a) of the State Constitution prohibits a special law or general law of local application pertaining to the following:

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<sup>6</sup> *Id.*

<sup>7</sup> U.S. Census Bureau, *Census 2000, Summary File 1*, available at [http://factfinder.census.gov/servlet/GCTTable?\\_bm=y&-context=gct&-ds\\_name=DEC\\_2000\\_SF1\\_U&-mt\\_name=DEC\\_2000\\_SF1\\_U\\_GCTPH1\\_ST2&-CONTEXT=gct&-tree\\_id=4001&-redoLog=true&-geo\\_id=04000US12&-format=ST-2|ST-2S&-lang=en](http://factfinder.census.gov/servlet/GCTTable?_bm=y&-context=gct&-ds_name=DEC_2000_SF1_U&-mt_name=DEC_2000_SF1_U_GCTPH1_ST2&-CONTEXT=gct&-tree_id=4001&-redoLog=true&-geo_id=04000US12&-format=ST-2|ST-2S&-lang=en)

(1) Election, jurisdiction or duties of officers, except officers of municipalities, chartered counties, special districts or local governmental agencies....

School districts are constitutionally created entities, as provided in sec. 4(a), art. IX, of the State Constitution. This section provides that each county constitutes a school district. Additionally, this section provides that school board members are to be elected by the voters, specifies school board composition, and grants school boards authority to supervise all free public schools. In *Kane v. Robbins*, the Florida Supreme Court confirmed that school board members are accorded constitutional status under this section and qualify as “officers” as described in sec. 11(a) of art. 3 of the State Constitution.<sup>8</sup> However, the court later determined that charter counties are excepted from this provision, so that the *Kane* ruling does not apply to charter counties.<sup>9</sup> Although this bill addresses the election of a school board member, its application is limited to charter counties. Therefore, it appears that the bill would not be found unconstitutional on this basis.

Section 11(b) of Art. III of the State Constitution provides:

In the enactment of general laws on other subjects, political subdivisions or other governmental entities may be classified only on a basis reasonably related to the subject of the law.

As this bill addresses elections, it appears that it would be categorized as coming under the exclusive purview of sec. 11(a) of art. III, and therefore, would not require that a reasonable relationship be shown.

Still, it is unclear whether a court would classify this bill as a general law, general law of local application, or a special law. The court’s identification of laws as general laws of local application appear to be tied to the provisions of sec. 11 of art. III of the State Constitution. As the language of this bill appears to be outside the ambit of the constitutional provision, this analysis does not address general laws of local application.<sup>10</sup>

This bill could potentially be considered to be a special act, however. The courts have coined the term “population act” to describe an act applicable to a single county not identified by name, but by population bracket into which it alone, qualifies. In these instances, the courts generally require the government to demonstrate a reasonable basis for the classification. In *Housing Authority Of City of St. Petersburg v. City Of St. Petersburg*, the Florida Supreme Court held a housing authority law which applied to Pinellas County exclusively through population classification to be a special law, and

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<sup>8</sup> 556 So.2d 1381, 1382 (Fla. 1989).

<sup>9</sup> *School Board of Palm Beach County v. Winchester*, 565 So.2d 1350, 1352 (Fla. 1990).

<sup>10</sup> See *Metropolitan Dade County v. Golden Nugget Group*, 448 So.2d 515 (Fla. 3d DCA 1984), *aff’d* by *Golden Nugget Group v. Metropolitan Dade County*, 464 So.2d 535 (Fla. 1985), for a discussion of general laws of local application, and the prerequisite of a showing of a reasonable relationship to a finding of constitutionality.

therefore unconstitutional, as the publication of notice required of special laws had not occurred.<sup>11</sup>

In its review of a statute which limited application to municipalities with over 300,000 residents on or before April 1, 1999, the Florida Supreme Court held determinative whether the law “is designed to operate upon particular municipalities through its restrictive classification system...and whether the classification...is arbitrary.”<sup>12</sup> Critical to the court’s determination that a law constituted an invalid special law was whether the criterion, such as population, was tied to a specific date, so that no other entities could ever qualify.<sup>13</sup> In this case, the court struck down the statute, even though it had the effect of applying to three municipalities.

This bill authorizes charter counties that have a population of between 800,000 and 1 million according to the latest federal decennial census, to provide for the districtwide election of a district school chair. Three counties, Hillsborough, Orange, and Pinellas, appear to be captured in this population classification. It is unclear whether a court would classify this bill as a general bill or as a special law. Use of the term “latest” in reference to the federal decennial census may render its application dynamic, rather than fixed and immutable. Therefore, a court may determine that it is not a special act. If a court does classify this bill as a special act, however, sec. 10 of art. III of the State Constitution would require proof of published notice prior to its passage.

#### **V. Economic Impact and Fiscal Note:**

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

If the election of the district school board chair is by proposition, the political committee that collects the petitions must pay the supervisor of elections ten cents per signature checked.

##### **C. Government Sector Impact:**

If the election of the district school board chair is by proposition, the supervisors of elections will incur costs related to verifying petition signatures.

#### **VI. Technical Deficiencies:**

None.

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<sup>11</sup> 287 So.2d 307, 311(Fla. 1974).

<sup>12</sup> *City of Miami v. Mcgrath III*, 824 So.2d 143, 148 (Fla. 2002).

<sup>13</sup> *Id.*

**VII. Related Issues:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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## **VIII. Summary of Amendments:**

None.

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